

## **REMARKS**

After entry of the foregoing amendments, claims 1-12, 15, 17-27, and 29-32 are pending in the application. Dependent claims 16 and 28 are canceled. Independent claims 1, 9-12, 15, and 26, and dependent claim 4 are amended. No new matter is added. Applicant respectfully requests reconsideration of the rejections discussed more fully below.

### **Claim Rejections Under 35 USC § 112**

Claims 4 and 17 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention. Claim 4 is amended to depend from claim 3, so that the phrase “pre-shaping action” will have antecedent basis in claim 3. Applicant notes that the term “wrap units” used in claim 17 finds antecedent basis in claim 15, from which claim 17 depends. Specifically, the term “wrap units” finds antecedent basis in the following language in claim 15: “a wrap forming plural air-tight units, each of the wrap units containing at least one of the candy bars.” Therefore, Applicant respectfully requests withdrawal of these rejections under § 112.

### **Claim Rejections Based on Prior Art**

Claims 1-12 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,752,365 (“Johnson”) in view of U.S. Patent No. 3,684,614 (“Lemelson”). Claims 15-23 and 25-32 stand rejected under § 103(a) as being unpatentable over Johnson and Official Notice. Claim 24 stands rejected under § 103(a) as being unpatentable over Johnson in view of U.S. Patent No. 5,105,942 (“Van Veen”).

Applicant notes that dependent claims 2-7, 17-23, 25, 27, and 29-32 were rejected without a specific reason and without examination of the limitations of these claims. If the Examiner can not present prior art to support the obviousness rejections under § 103(a) for each and every limitation recited in these dependent claims, Applicant requests that the rejections under § 103(a) be withdrawn, and Applicant requests a notice of allowance for these dependent claims.

Independent Claims 1, 9, 10, and 11

Claim 1, as amended recites, in pertinent part, “positioning the products on a planar first sheet which is continuously moved in a transport direction, covering the products by a second sheet which is *separate from the first sheet* and continuously moved in the same transport direction and which is aligned substantially plane-parallel to the first sheet ....”

Claims 9-11 contain limitations similar to the aforementioned limitations of claim 1. Claims 1 and 9-11 have been amended to clarify that the claimed packages are formed from two separate sheets.

Johnson, on the other hand, teaches “an overwrapping material 122 including a bottom surface or strip 124 ... and a top surface or strip 126 ... formed by first and second portions having longitudinal edges *integrally connected* to the respective longitudinal side edges of bottom strip 124” (Johnson at col. 4, lines 30-35).

Lemelson teaches a method of producing an optical display sheet material containing “a plurality of pocket-like formations 32a which are space-separated from each other...” (Lemelson at col. 4, lines 70-72). Also, although the Office Action states that Lemelson discloses a method and apparatus for packaging products (Office Action at ¶ 5), Lemelson in fact teaches a method of producing an optical display sheet material.

Neither Johnson nor Lemelson, either alone or in combination, teach or suggest all of the limitations of claims 1 and 9-11. In particular, neither Johnson nor Lemelson teach or suggest positioning products on a first sheet and covering the products by a second sheet which is *separate* from the first sheet. Applicant respectfully requests that the rejections of claims 1 and 9-11 under § 103(a) be withdrawn.

Independent Claim 12

Claim 12, as amended recites, in pertinent part, “two *separate* sheets which are sealed together and enclose said products or groups of products ... wherein one of said sheets is a substantially flat *relatively rigid board or film* and the other sheet is a relatively flexible foil or film shaped to fit at least partially around the products ... and the *sides of the sealed sheets extending from the outer ends of the sheets are bent in order to give the array rigidity* in its longitudinal direction.” Claim 12 has been amended to clarify that the claimed packages are formed from two separate sheets.

As mentioned above, Johnson teaches “a bottom surface or strip 124 ... and a top surface or strip 126 ... having longitudinal edges *integrally connected* to the respective longitudinal side edges of bottom strip 124” (Johnson at col. 4, lines 30-35). Lemelson teaches a method of producing an optical display sheet material containing “a plurality of pocket-like formations 32a which are space-separated from each other...” (Lemelson at col. 4, lines 70-72).

Neither Johnson nor Lemelson, either alone or in combination, teach or suggest all of the limitations of claim 12. In particular, neither Johnson nor Lemelson teach or suggest two *separate* sheets that enclose an array of products, one of the sheets being a relatively *rigid* board or film, and the sides of the sheets being *bent* to give the array of products rigidity.

Also, the Office Action does not address the limitations of claim 12 that recite the relatively rigid board or film and the sides of the sheets being bent to give the array of products rigidity. If the Examiner can not present prior art to support the obviousness rejections under § 103(a) for each and every limitation recited in claim 12, Applicant requests that the rejection of claim 12 under § 103(a) be withdrawn.

#### Independent Claims 15 and 26

Claim 15, as amended recites, in pertinent part, “a substantially flat lower sheet extending beneath the array ... an *upper sheet that is separate from the lower sheet*, the upper sheet including ... end portions extending transversely from the top portion; end seals formed between the upper sheet end portions and the lower sheet ... wherein the upper sheet end portions and portions of the lower sheet forming the *end seals are folded upwardly, whereby rigidity of the package is enhanced.*” Claim 26 contains limitations similar to the aforementioned limitations of claim 15. Claims 15 and 26 have been amended to clarify that the claimed packages are formed from two separate sheets, and to include all of the limitations of canceled dependent claims 16 and 28, respectively.

As mentioned above, Johnson teaches “a bottom surface or strip 124 ... and a top surface or strip 126 ... having longitudinal edges *integrally connected* to the respective longitudinal side edges of bottom strip 124” (Johnson at col. 4, lines 30-35). Lemelson teaches a method of producing an optical display sheet material containing “a plurality of

pocket-like formations 32a which are space-separated from each other..." (Lemelson at col. 4, lines 70-72).

Regarding the limitations of canceled dependent claims 16 and 28 that are included in amended claims 15 and 26, the Office Action states that "Applicant is given Official Notice that the use of pleats at the edges of sealed packages is well known ... and it would have been obvious ... to fold the end of the wrap in order to make for a more secure seal" (*Id.*).

It is unclear to Applicant what the Examiner means by giving Official Notice about "the use of pleats at the edges of sealed packages." Applicant respectfully traverses the Official Notice, because the limitations of canceled claims 16 and 28 (included in amended claims 15 and 26) do not include the use of pleats at the edges of sealed packages. Rather, these claims include the subject matter: "wherein the upper sheet end portions and portions of the lower sheet forming the *end seals are folded upwardly, whereby rigidity of the package is enhanced*" as shown by reference numeral 21 in FIG. 4. Applicant requests that the Examiner be more specific regarding the basis for the rejection of the claimed subject matter. Further, this claimed structure provides a functional advantage over Johnson as explained in the specification: "sealed longitudinal sides 21 of the package are folded upwards, giving the array 19 such rigidity that it can subsequently be treated as a box" (specification, ¶ 20).

Neither Johnson nor Official Notice, either alone or in combination, teach or suggest all of the limitations of claims 15 and 26. In particular, neither Johnson nor Official Notice teach or suggest two *separate* sheets that seal a bandolier of packaged candy bars, wherein the upper sheet end portions and portions of the lower sheet forming the *end seals are folded upwardly, whereby rigidity of the package is enhanced*. Applicant respectfully requests that the rejections of claims 15 and 26 under § 103(a) be withdrawn.

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**PATENT**

## **CONCLUSION**

For at least the foregoing reasons, Applicant respectfully submits that independent claims 1, 9-12, 15, and 26 patentably define over the cited references and are allowable. As claims 2-8 ultimately depend from claim 1, claims 17-25 ultimately depend from claim 15, and claims 27 and 29-32 ultimately depend from claim 18, Applicant further submits that the dependent claims patentably define over the cited references and are allowable. Applicant respectfully requests a notice of allowance for claims 1-12, 15, 17-27, and 29-32.

Respectfully submitted,

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